


UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 03-CA-293987	Date Filed 04/13/2002

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Rochester General Hospital	b. Tel. No. (585) 922-4000
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 1425 Portland Ave. Rochester, NY 14621	e. Employer Representative Kevin Casey, MD President, Rochester General Hospital
	g. e-mail
	h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Healthcare Facility	j. Identify principal product or service Medical Services
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) See attached.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Northeast Nurses Association	
4a. Address (Street and number, city, state, and ZIP code) 80 Broad St, 5th Floor New York, NY 10004	4b. Tel. No. (917) 734-5662
	4c. Cell No.
	4d. Fax No.
	4e. e-mail nhadzic@nenurses.org
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
 (signature of representative or person making charge)	Jane Lauer Barker, Esq. (Print/type name and title or office, if any)
Pitta LLP, 120 Broadway, 28th Floor, New York, NY Address 10271	Tel. No. (212) 652-3828
	Office, if any, Cell No.
	Fax No.
	e-mail jbarker@pittalaw.com
	Date Apr 13, 2022

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

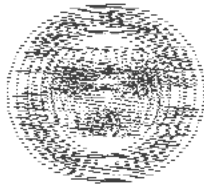
Attachment to Charge against Employer Rochester General Hospital

2. Basis of the Charge:

Within a period in the past six months, the above-named Employer has discriminated against employees because of their union activities as well as interfered, restrained, and coerced employees in the exercise of their Section 7 rights.

During the early stages of a union organizing campaign, among other prohibited acts, the Employer has: disciplined employees based on union support; polled employees to determine the extent of their support for a union; prohibited employees from talking, soliciting, and distributing information in support of a union during work time while permitting similar anti-union and non-work speech; confiscated and threw away pro-union literature; conducted mandatory captive audience meetings on paid time; surveilled and created the impression of surveillance of union activity; restricted hospital access to curtail union discussions; withheld benefits; altered work assignments to discourage union discussions; interrogated employees as to union sympathies; disparaged pro-union employees; and announced and discriminatorily applied a punitive work hours policy.

The Charging Party requests the Board to seek injunctive relief pursuant to NLRA Section 10(j).



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972

Download
NLRB
Mobile App

April 14, 2022

Kevin Casey, President, Rochester General Hospital
Rochester General Hospital
1425 Portland Ave
Rochester, NY 14621

Re: Rochester General Hospital
Case 03-CA-293987

Dear Dr. Casey:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner Michael Dahlheimer whose telephone number is (716)398-7008. If this Board agent is not available, you may contact Regional Director LINDA M. LESLIE whose telephone number is (716)398-7017.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether

or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

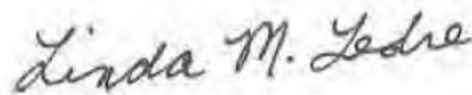
If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Linda M. Leslie".

LINDA M. LESLIE
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 03-CA-293987
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:	7B. BRANCH LOCATIONS:
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8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:	B. AT THE ADDRESS INVOLVED IN THIS MATTER:
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9. DURING THE MOST RECENT (Check the appropriate box): CALENDAR 12 MONTHS or FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

YES NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

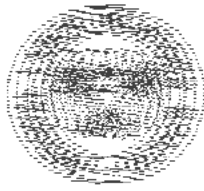
NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE

PRIVACY ACT STATEMENT

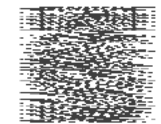
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
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Fax: (716)551-4972



Download
NLRB
Mobile App

April 14, 2022

Northeast Nurses Association
80 Broad St
5th Floor
New York, NY 10004

Re: Rochester General Hospital
Case 03-CA-293987

Dear Sir or Madam:

The charge that you filed in this case on April 13, 2022 has been docketed as case number 03-CA-293987. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner Michael Dahlheimer whose telephone number is (716)398-7008. If this Board agent is not available, you may contact Regional Director LINDA M. LESLIE whose telephone number is (716)398-7017.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate. Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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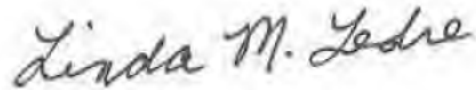
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office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Linda M. Leslie".

LINDA M. LESLIE
Regional Director

cc: Jane Lauer Barker, ESQ.
PITTA LLP
120 Broadway, 28th Floor
New York, NY 10271-0002

**NATIONAL LABOR RELATIONS BOARD
NOTICE OF APPEARANCE**

ROCHESTER GENERAL HOSPITAL,

-and-

Case No.: 03-CA-293987

NORTHEAST NURSES ASSOCIATION

TO: (Check One Box Only¹)

<input checked="" type="checkbox"/> REGIONAL DIRECTOR	<input type="checkbox"/> EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BD. Washington, DC 20570	<input type="checkbox"/> GENERAL COUNSEL NATIONAL LABOR RELATIONS BD. Washington, DC 20570
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THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF **ROCHESTER GENERAL HOSPITAL** IN THE ABOVE CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

REPRESENTATIVE IS AN ATTORNEY

IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SECTION 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

Name: <u>Roy R. Galewski</u>
Mailing Address: <u>Harris Beach PLLC, 99 Garnsey Road, Pittsford, New York 14534</u>
E-Mail Address: <u>rgalewski@harrisbeach.com</u>
Office Telephone Number: <u>(585) 419-8661</u>
Cell Phone Number: <u>585-455-5108</u> Fax: <u>(585) 419-8817</u>
Signature: <u>/s/ Roy Galewski</u>
Date: <u>April 20, 2022</u>

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

Amended

FORM NLRB-501
(3-21)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 03-CA-293987	Date Filed 5/3/2022

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Rochester General Hospital	
b. Tel. No. (585) 922-4000	
c. Cell No.	
f. Fax. No.	
d. Address (Street, city, state, and ZIP code) 1425 Portland Ave. Rochester, NY 14621	e. Employer Representative Kevin Casey, MD President, Rochester General Hospital
g. e-mail	
h. Number of workers employed	
i. Type of Establishment (factory, mine, wholesaler, etc.) Healthcare Facility	j. Identify principal product or service Medical Services
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) See attached.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Northeast Nurses Association	
4a. Address (Street and number, city, state, and ZIP code) 80 Broad St, 5th Floor New York, NY 10004	
4b. Tel. No. (917) 734-5662	
4c. Cell No.	
4d. Fax No.	
4e. e-mail nhadzic@nenurses.org	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
 _____ (signature of representative or person making charge)	
Jane Lauer Barker, Esq. _____ (Print/type name and title or office, if any)	
Pitpa LLP, 120 Broadway, 28th Floor, New York, NY Address 10271	
Date Apr 29, 2022	
Tel. No. (212) 652-3828	
Office, if any, Cell No.	
Fax No.	
e-mail jbarker@pitalaw.com	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

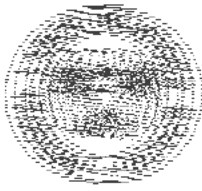
Attachment to Amended Charge against Employer Rochester General Hospital

2. Basis of the Charge:

Within a period in the past six months, the above-named Employer has discriminated against employees because of their union activities as well as interfered, restrained, and coerced employees in the exercise of their Section 7 rights.

During the early stages of a union organizing campaign, among other prohibited acts, the Employer has: disciplined employees based on union support; polled employees to determine the extent of their support for a union; prohibited employees from talking, soliciting, and distributing information in support of a union during work time while permitting similar anti-union and non-work speech; confiscated and threw away pro-union literature; conducted mandatory captive audience meetings on paid time; surveilled and created the impression of surveillance of union activity; restricted hospital access to curtail union discussions; withheld benefits; altered work assignments to discourage union discussions; interrogated employees as to union sympathies; disparaged pro-union employees; promulgated and discriminatorily applied a punitive work hours policy; terminated an employee based on union activity; promised to grant or increase benefits to interfere with and influence a union organizing campaign; and promulgated and enforced an invalid bar on hospital access for off-duty employees.

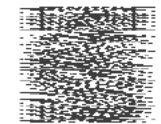
The Charging Party requests the Board to seek injunctive relief pursuant to NLRA Section 10(j).



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



Download
NLRB
Mobile App

May 3, 2022

Kevin Casey, President, Rochester General Hospital
Rochester General Hospital
1425 Portland Ave
Rochester, NY 14621

Re: Rochester General Hospital
Case 03-CA-293987

Dear Dr. Casey:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Examiner Michael Dahlheimer whose telephone number is (716)398-7008. If the agent is not available, you may contact Regional Director LINDA M. LESLIE whose telephone number is (716)398-7017.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

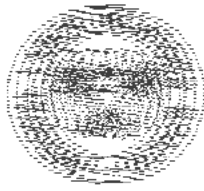
Very truly yours,

A handwritten signature in black ink that reads "Linda M. Leslie". The signature is written in a cursive style.

LINDA M. LESLIE
Regional Director

Enclosure: Copy of first amended charge

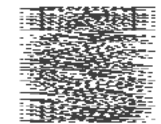
cc: Roy R. Galewski, ESQ.
Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534-4565



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



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May 3, 2022

Northeast Nurses Association
80 Broad St
5th Floor
New York, NY 10004

Re: Rochester General Hospital
Case 03-CA-293987

Dear Sir or Madam:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Examiner Michael Dahlheimer whose telephone number is (716)398-7008. If the agent is not available, you may contact Regional Director LINDA M. LESLIE whose telephone number is (716)398-7017.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script that reads "Linda M. Leslie".

LINDA M. LESLIE
Regional Director

cc: Jane Lauer Barker, ESQ.
Pitta LLP
120 Broadway, 28th Floor
New York, NY 10271-0002

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 3-CA-293987	Date Filed 5/16/2022

Second Amended

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Rochester General Hospital		b. Tel. No. (585) 922-4000
		c. Cell No.
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 1425 Portland Ave. Rochester, NY 14621	e. Employer Representative Kevin Casey, MD President, Rochester General Hospital	g. e-mail
		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Healthcare Facility	j. Identify principal product or service Medical Services	

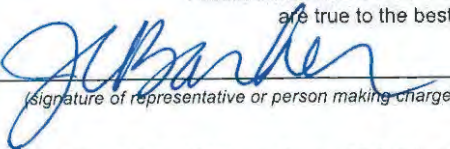
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
See Attached.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Northeast Nurses Association

4a. Address (Street and number, city, state, and ZIP code) 80 Broad St., 5th Floor New York, NY 10004		4b. Tel. No. (917) 734-5662
		4c. Cell No.
		4d. Fax No.
		4e. e-mail nhadzic@nenurses.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. (212)652-3828
 _____ (signature of representative or person making charge)		Office, if any, Cell No.
Jane Lauer Barker, Esq. _____ (Print/type name and title or office, if any)		Fax No.
Address Pitta LLP, 120 Broadway, 28th Fl., New York, NY 10271		e-mail jbarker@pittalaw.com
Date May 13, 2022		

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

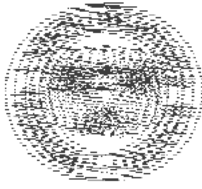
**Attachment to Second Amended Charge against Employer Rochester General Hospital
May 13, 2022
03-CA-293987**

2. Basis of the Charge:

Within a period in the past six months, the above-named Employer has discriminated against employees because of their union activities as well as interfered, restrained, and coerced employees in the exercise of their Section 7 rights.

During the early stages of a union organizing campaign, among other prohibited acts, the Employer has: disciplined employees based on union support; polled employees to determine the extent of their support for a union; prohibited employees from talking, soliciting, and distributing information in support of a union during work time while permitting similar anti-union and non-work speech; confiscated and threw away pro-union literature; conducted mandatory captive audience meetings on paid time; surveilled and created the impression of surveillance of union activity; restricted hospital access to curtail union discussions; withheld benefits; altered work assignments to discourage union discussions; interrogated employees as to union sympathies; disparaged pro-union employees; promulgated and discriminatorily applied a punitive work hours policy; promised to grant or increase benefits to interfere with and influence a union organizing campaign; and promulgated and enforced an invalid bar on hospital access for off-duty employees.

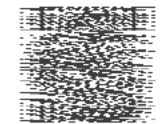
The Charging Party requests the Board to seek injunctive relief pursuant to NLRA Section 10(j).



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



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May 16, 2022

Kevin Casey, President, Rochester General Hospital
Rochester General Hospital
1425 Portland Ave
Rochester, NY 14621

Re: Rochester General Hospital
Case 03-CA-293987

Dear Dr. Casey:

Enclosed is a copy of the second amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Examiner Michael Dahlheimer whose telephone number is (716)398-7008. If the agent is not available, you may contact Regional Director LINDA M. LESLIE whose telephone number is (716)398-7017.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the second amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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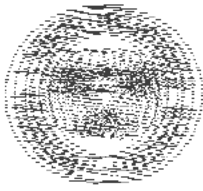
Very truly yours,

A handwritten signature in black ink that reads "Linda M. Leslie". The signature is written in a cursive, flowing style.

LINDA M. LESLIE
Regional Director

Enclosure: Copy of second amended charge

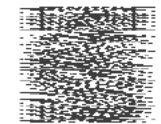
cc: Roy R. Galewski, ESQ.
Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534-4565



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



Download
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May 16, 2022

Northeast Nurses Association
80 Broad St
5th Floor
New York, NY 10004

Re: Rochester General Hospital
Case 03-CA-293987

Dear Sir or Madam:

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Investigator: This charge is being investigated by Field Examiner Michael Dahlheimer whose telephone number is (716)398-7008. If the agent is not available, you may contact Regional Director LINDA M. LESLIE whose telephone number is (716)398-7017.

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Very truly yours,

A handwritten signature in cursive script that reads "Linda M. Leslie".

LINDA M. LESLIE
Regional Director

cc: Jane Lauer Barker, ESQ.
Pitta LLP
120 Broadway, 28th Floor
New York, NY 10271-0002

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 3**

ROCHESTER GENERAL HOSPITAL

and

Case 03-CA-293987

NORTHEAST NURSES ASSOCIATION

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Northeast Nurses Association (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Rochester General Hospital (Respondent) has violated the Act as described below.

1.

(a) The charge in this proceeding was filed by the Union on April 13, 2022, and a copy was served on Respondent by U.S. mail on April 14, 2022.

(b) The first amended charge in this proceeding was filed by the Union on May 3, 2022, and a copy was served on Respondent by U.S. mail on the same date.

(c) The second amended charge in this proceeding was filed by the Union on May 16, 2022, and a copy was served on Respondent by U.S. mail on the same date.

2.

(a) At all material times, Respondent has been a corporation with an office and place of business in Rochester, New York (Respondent's facility), where it operates an acute care hospital, providing health care and related services.

(b) Annually, Respondent, in conducting its business operations described above in paragraph 2(a), derives gross revenues in excess of \$250,000.

(c) Annually, Respondent, in conducting its business operations described above in paragraph 2(a), purchases and receives at its Rochester, New York facility goods valued in excess of \$5,000 directly from points outside the State of New York.

3.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and has been a healthcare institution within the meaning of Section 2(14) of the Act.

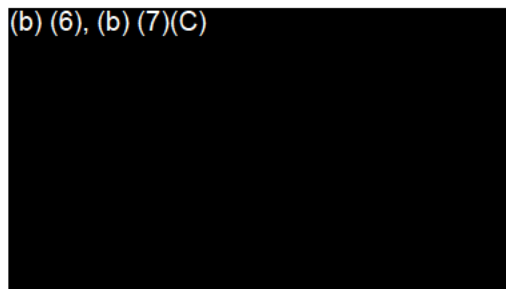
4.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5.

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)

A large black rectangular redaction box covers the names and positions of the individuals mentioned in the preceding paragraph.

(b) At all material times, the following individuals held the positions set forth opposite their respective names and have been agents of Respondent within the meaning of Section 2(13) of the Act:

Unnamed Agent – (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

6.

(a) About (b) (6), (b) (7)(C) 2022, a more precise date being unknown to the General Counsel, Respondent, by (b) (6), (b) (7)(C), at Respondent's facility, polled employees about whether they supported forming a union.

(b) About (b) (6), (b) (7)(C) 2022, a more precise date being unknown to the General Counsel, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, prohibited employees from talking about the union during working time while permitting employees to talk about other non-work subjects.

(c) About (b) (6), (b) (7)(C) 2022, a more precise date being unknown to the General Counsel, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, held mandatory captive audience meetings.

(d) About (b) (6), (b) (7)(C) 2022, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, interrogated its employees about their union membership, activities, and sympathies.

(e) About (b) (6), (b) (7)(C) 2022, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, made promises of benefits in order to discourage employees from supporting a union.

(f) About (b) (6), (b) (7)(C) 2022, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, restricted access to certain areas of the hospital to prevent its employees from engaging in union activity.

(g) About (b) (6), (b) (7)(C) 2022, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, created the impression of surveillance of employees' union activity by telling an employee (b) (6), (b) (7)(C) knew the employee supported the union and were engaging in union activity prior to that employee publicly stating their position.

(h) About (b) (6), (b) (7)(C) 2022, Respondent, by (b) (6), (b) (7)(C), at Respondent's facility, disparaged employees because they engaged in union activity.

7.

(a) At all material times, Respondent has maintained the following rule:

Solicitation and Distribution of Literature

[...]

Persons employed by Rochester Regional Health may not post (e.g., on bulletin boards), distribute literature, or solicit on Rochester Regional Health property for any purpose at any time.

Persons employed by Rochester Regional Health:

- May not solicit employees in patient or resident rooms or patient or resident care areas at any time. Such care areas include all places where patients or residents receive treatment, including their own homes.
- May not post or distribute literature, except in non-working areas during their non-working time (working time does not include meal times and authorized breaks).

(b) About (b) (6), (b) (7)(C) 2022, Respondent, by (b) (6), (b) (7)(C) at Respondent's facility, enforced the rule described above in paragraph 7(a) selectively and disparately by discarding union materials and prohibiting employees from placing union literature in a certain area while permitting employees to place other materials concerning non-work-related subjects in the area.

(c) About (b) (6), (b) (7)(C), 2022, Respondent, by an unnamed agent serving as (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), at Respondent's facility, enforced the rule described above in paragraph 7(a) selectively and disparately by denying certain hospital access to off-duty employees and prohibiting union solicitations and distributions, while permitting nonunion solicitations and distributions.

8.

(a) About (b) (6), (b) (7)(C) 2022, Respondent altered its employee (b) (6), (b) (7)(C) work assignments, including by temporarily moving (b) (6), (b) (7)(C) to a different work location.

(b) About (b) (6), (b) (7)(C) 2022, Respondent disciplined (b) (6), (b) (7)(C).

(c) Respondent engaged in the conduct described above in paragraph 8(a) and (b) because the named employee of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

9.

By the conduct described above in paragraphs 6(a) through (h), and 7(b) and (c), Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

10.

By the conduct described above in paragraph 8(a) through (c), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

11.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 6 through 10, and to fully remedy the unfair labor practices, the General Counsel seeks an order requiring that Respondent:

(a) grant a Board Agent access to Respondent's facility to produce records so that the Board Agent can determine whether Respondent has complied with posting, distributing, and mailing requirements;

(b) at a meeting or meetings scheduled to ensure the widest possible attendance, have a company manager read the Notice to Employees (the Notice) to employees employed by Respondent and Respondent's facility on work time in the presence of a Board agent, a representative of the Union, or have a Board agent read the Notice to employees employed by Respondent at Respondent's facility on work time in the presence of the Union, a company manager, and make a video recording of the reading of the Notice, with the recording being distributed to employees by electronic means or by mail;

(c) email the signed Notice to all supervisors and managers that work at Respondent's facility and/or that are responsible for the work at the facility located at 1425 Portland Avenue, Rochester, NY; and

(d) send a written letter of apology to (b) (6), (b) (7)(C) for the hardship and distress (b) (6), (b) (7)(C) experienced because Respondent unlawfully changed (b) (6), (b) (7)(C) work assignments and disciplined (b) (6), (b) (7)(C)

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 21, 2022, or postmarked on or before July 20, 2022.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on October 4, 2022 at 10:00 a.m., and on consecutive days thereafter until concluded, a hearing is scheduled **as a Virtual Hearing, on the Zoom**

platform, before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: July 7, 2022.

/s/ Linda M. Leslie

LINDA M. LESLIE
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 3
130 South Elmwood Avenue, Suite 630
Buffalo, NY 14202-2465

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 03-CA-293987

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Kevin Casey , President, Rochester General Hospital
The Rochester General Hospital
1425 Portland Ave
Rochester, NY 14621

Roy R. Galewski , ESQ.
Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534-4565

Jane Lauer Barker , ESQ.
Pitta LLP
120 Broadway, 28th Floor
New York, NY 10271-0002

Northeast Nurses Association
80 Broad St
5th Floor
New York, NY 10004

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility

of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION THREE**

ROCHESTER GENERAL HOSPITAL

and

Case 03-CA-293987

NORTHEAST NURSES ASSOCIATION

ANSWER TO COMPLAINT

Rochester General Hospital ("RGH"), Respondent in this proceeding, by its attorneys, Harris Beach PLLC, for its Answer to the Complaint, states as follows:

1. With respect to the allegations contained in the introductory paragraph of the Complaint, Respondent admits the Complaint results from a Charge filed by the Northeast Nurses Association, cites the statutory and regulatory provisions cited in this paragraph for their true and correct content, and otherwise denies the remaining allegations contained in the introductory paragraph.

2. Respondent admits the allegations contained in Paragraph 1 of the Complaint.

3. Respondent admits the allegations contained in Paragraph 2 of the Complaint.

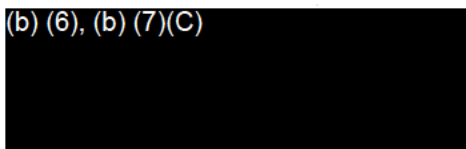
4. Respondent admits the allegations contained in Paragraph 3 of the Complaint.

5. Respondent admits, upon information and belief, the allegations contained in Paragraph 4 of the Complaint.

6. With respect to the allegations contained in Paragraph 5 of the Complaint:

a) Respondent admits that the individuals listed below hold the positions set forth next to their respective names:

(b) (6), (b) (7)(C)

A large black rectangular redaction box covers the names and positions of the individuals mentioned in the preceding text.

(b) (6), (b) (7)(C)

denies knowledge or information sufficient to respond to the allegation as to “all material times,” admits that each individual listed in Paragraph 5(a) is a supervisor and agent of the Respondent within the meaning of the Act, and otherwise denies the remaining allegations contained in Paragraph 5(a) of the Complaint; and

b) Respondent denies knowledge or information sufficient to respond to the allegations related to a purported “unnamed agent,” admits an individual named (b) (6), (b) (7)(C) has worked as (b) (6), (b) (7)(C) on behalf of Respondent, admits that while acting in the capacity of (b) (6), (b) (7)(C) this individual was an agent of Respondent within the meaning of Section 2(13) of the Act, denies knowledge or information sufficient to respond to the allegation as to “all material times,” and otherwise denies the remaining allegations contained in Paragraph 5(b) of the Complaint.

7. With respect to the allegations contained in Paragraph 6 of the Complaint:

- a) Respondent denies the allegations contained in Paragraph 6(a) of the Complaint;
- b) Respondent denies the allegations contained in Paragraph 6(b) of the Complaint;
- c) Respondent admits an individual named (b) (6), (b) (7)(C) has worked as a consultant on behalf of Respondent and that this individual met with certain employees of Respondent during employee working time in or around (b) (6), (b) (7)(C) 2022, and otherwise denies the remaining allegations contained in Paragraph 6(c) of the Complaint;

d) Respondent denies the allegations contained in Paragraph 6(d) of the Complaint;

e) Respondent denies the allegations contained in Paragraph 6(e) of the Complaint;

f) Respondent admits that (b) (6), (b) (7)(C) restricted access to one breakroom in or around (b) (6), (b) (7)(C) 2022, and otherwise denies the remaining allegations contained in Paragraph 6(f) of the Complaint;

g) Respondent denies the allegations contained in Paragraph 6(g) of the Complaint; and

h) Respondent denies the allegations contained in Paragraph 6(h) of the Complaint.

8. With respect to the allegations contained in Paragraph 7 of the Complaint:

a) Respondent admits that it maintains the rule cited in paragraph 7(a), denies knowledge or information sufficient to respond to the allegations as to “all material times,” and otherwise denies the remaining allegations contained in Paragraph 7(a) of the Complaint;

b) Respondent denies the allegations contained in Paragraph 7(b) of the Complaint; and

c) Respondent denies the allegations contained in Paragraph 7(c) of the Complaint.

9. With respect to the allegations contained in Paragraph 8 of the Complaint:

a) Respondent denies the allegations contained in Paragraph 8(a) of the Complaint;

b) Respondent admits that on or about (b) (6), (b) (7)(C) 2022, Respondent issued (b) (6), (b) (7)(C) a verbal counseling, states that a verbal counseling is not considered a form of discipline by Respondent, and otherwise denies the remaining allegations contained in Paragraph 8(b) of the Complaint; and

c) Respondent denies the allegations contained in Paragraph 8(c) of the Complaint.

10. Respondent denies the allegations contained in Paragraph 9 of the Complaint.

11. Respondent denies the allegations contained in Paragraph 10 of the Complaint.

12. Respondent denies the allegations contained in Paragraph 11 of the Complaint.

13. Respondent denies that Charging Party and/or the Region are entitled to any of the remedies sought in the "Wherefore" paragraph, and otherwise denies the remaining allegations contained in this paragraph.

14. Respondent denies every remaining allegation of the Complaint not specifically admitted, denied or otherwise controverted.

FIRST AFFIRMATIVE DEFENSE

15. The Complaint is legally insufficient and fails to state a claim because it fails to provide sufficient information related to the alleged unfair labor practices in Paragraphs 5, 6 and 7.

SECOND AFFIRMATIVE DEFENSE

16. So-called "captive audience meetings" remain lawful and appropriate under well-established case law interpreting the National Labor Relations Act. Accordingly, all allegations in the Complaint related to "captive audience meetings" are legally insufficient and should be dismissed.

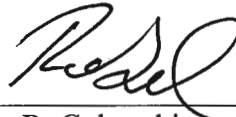
THIRD AFFIRMATIVE DEFENSE

17. The extraordinary remedies requested in the “Wherefore” paragraph of the Complaint are inappropriate, overreaching, unsupported by the Act and exceed the Board’s remedial authority.

WHEREFORE, Respondent requests that the Complaint be dismissed and that Respondent has such other and further relief as the Administrative Law Judge and/or the National Labor Relations Board may deem appropriate.

Dated: July 20, 2022
Pittsford, New York

HARRIS BEACH PLLC



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